

**IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND
(NORTHERN DIVISION)**

ERIE INSURANCE EXCHANGE	:
t/i/o/u and t/u/o	
JODY B. ROSEN	:
and	:
JODY B. ROSEN,	:
Individually	
and	:
ERIE INSURANCE EXCHANGE	:
t/i/o/u and t/u/o	
HOLLINGTON CONDOMINIUM COUNCIL	:
OF UNIT OWNERS	:
and	:
HOLLINGTON CONDOMINIUM COUNCIL	:
OF UNIT OWNERS,	
Individually	:
Plaintiffs	:
vs.	: Case No. CCB-03CV143
SONY ELECTRONICS, INC.	:
Defendant	:

PLAINTIFF'S MOTION TO DISMISS COMPLAINT WITHOUT PREJUDICE

COME NOW the Plaintiffs, Erie Insurance Exchange t/i/o/u and t/u/o Jody B. Rosen, Jody B. Rosen, Individually, Erie Insurance Exchange t/i/o/u and t/u/o Hollington Condominium Council of Unit Owners and Hollington Condominium Council of Unit Owners, Individually, by their attorneys McCarthy Wilson

and Edward J. Brown, and file this Motion to Dismiss Complaint Without Prejudice, and state:

1. This action arises from a fire in Baltimore County, Maryland on December 31, 2000. Plaintiffs aver that the fire was caused by Defendant's television. Plaintiff, Erie/Jody B. Rosen, has incurred Forty Thousand Two Hundred Fourteen Dollars and Thirty Cents (\$40,214.30) of damages. Plaintiff, Erie/Hollington Condominium, has incurred Thirty-Three Thousand Four Hundred Thirty-Seven Dollars and Ninety-Three Cents (\$33,437.93) worth of damages.

2. That at the time of the filing of Plaintiffs' Complaint, Plaintiff, Erie/Jody B. Rosen, sued for a slightly higher amount (Forty-Five Thousand Dollars (\$45,000.00)) pending confirmation of the actual damages.

3. That given that the actual amount in controversy is less than Seventy-Five Thousand Dollars (\$75,000.00), Plaintiffs move this Court to dismiss their action without prejudice, with the intention of re-filing this action in the Circuit Court for Baltimore County with an ad damnum of Seventy-Three Thousand Six Hundred Fifty-Two Dollars and Twenty-Three Cents (\$73,652.23).

4. That Defendant will not be prejudiced by this dismissal without prejudice as this case is still in its early stages, and there has not been any significant discovery

(indeed, the exchange of Answers to Interrogatories and Responses to Request for Production of Documents has not yet occurred); furthermore, Defendant has agreed to answer the state court discovery propounded by Plaintiffs with their Complaint.

WHEREFORE, Plaintiffs respectfully move this Court to dismiss their action without prejudice.

Respectfully submitted,

McCARTHY WILSON

/S/
Edward J. Brown, Esquire
100 South Washington Street
Rockville, Maryland 20850
(301) 762-7770
Attorneys for Plaintiffs

CITATION OF GROUNDS AND AUTHORITIES

Federal Rule of Civil Procedure, 41(a).

/S/
Edward J. Brown, Esquire

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11th day of July, 2003 a copy of the foregoing Plaintiffs' Motion to Dismiss Complaint Without Prejudice was mailed, postage prepaid to:

Timothy L. Mullin, Esquire
Lauren N. Schultz, Esquire
Miles & Stockbridge, P.C.
10 Light Street, Suite 700
Baltimore, Maryland 21202
Attorneys for Defendant

Robert J. Hafner, Esquire
Lavin, Coleman, O'Neil, Ricci,
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Suite 1000 - Penn Mutual Tower
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Philadelphia, Pennsylvania 19106
Attorneys for Defendant

/S/
Edward J. Brown, Esquire

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HOLLINGTON CONDOMINIUM COUNCIL OF UNIT OWNERS, Individually	:
Plaintiffs	:
vs.	: Case No. CCB-03CV143
SONY ELECTRONICS, INC.	:
Defendant	:

ORDER

UPON CONSIDERATION of the foregoing Plaintiffs' Motion to Dismiss Complaint Without Prejudice, and any Opposition thereto, it is this _____ day of _____, 2003, by the United States District Court for the District of Maryland, hereby

ORDERED, that Plaintiffs' Motion to Dismiss Complaint Without Prejudice be and the same hereby is GRANTED; and, it is further

ORDERED, that Plaintiffs' Complaint is hereby DISMISSED WITHOUT PREJUDICE.

Judge, United States District
Court for the District of
Maryland

Copies to:

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